

**COMPLAINT INVESTIGATION  
CLARK COUNTY SCHOOL DISTRICT  
(#CL060908)**

**INTRODUCTION**

On June 9, 2008, the Nevada Superintendent of Public Instruction received a complaint from the parents of a student with disabilities alleging violations in the special education program in the Clark County School District (CCSD). An investigation team was appointed to examine the allegations that CCSD had not provided special education services to the student during the 2007/2008 school year.

Under the provisions of 34 CFR §300.152(b) of the Individuals with Disabilities Education Act (IDEA), the Nevada Department of Education (NDE) extended the timeline for the completion of the complaint investigation due to the unavailability during the summer months of CCSD personnel with whom interviews were necessary. The parents and district were notified of this extension in letters dated July 9, 2008.

**COMPLAINT ISSUES**

The allegations in the complaint raised the following issues under the jurisdiction of the Nevada Department of Education (NDE):

**Issue 1:** Whether the CCSD implemented the October 2007 individualized educational program (IEP) from October 25, 2007, through November 5, 2007.

**Issue 2:** Whether the CCSD implemented the October 2007 individualized educational program (IEP) from January 22, 2008, through June 4, 2008.

**PERSONS INTERVIEWED**

The investigation team interviewed the following persons:

- Parent
- Special education instructional facilitator (instructional facilitator)
- Homebound coordinator
- School psychologist
- Dean

**DOCUMENTS REVIEWED**

The investigation team reviewed the following documents:

- IEP dated October 25, 2007
- IEP cover page dated February 27, 2008
- Student attendance records for 2007/2008 school year
- Doctors' letters dated January 9, 2008, January 18, 2008, and April 4, 2008
- Student status record for 2007/2008

The investigation team also reviewed the following material:

- Nevada Administrative Code (NAC), Chapter 388
- Individuals with Disabilities Education Act (IDEA) Regulations, 34 CFR Part 300

## **FINDINGS OF FACT**

This investigation involved a high school student who was enrolled at his zoned school at various times during the 2007/2008 school year. A review of documents, an interview with the parent, the instructional facilitator, the school psychologist, the dean, and the homebound coordinator revealed the following facts.

The student's initial IEP was developed on October 25, 2007 (October 2007 IEP). The present levels of performance included a description of the student's depression, anxiety, failure to complete assignments, numerous absences, and a concern about the absences impacting the student's education. The IEP had two annual goals, both of which were academic and related to work in the general education classes. The October 2007 IEP provided for specially designed instruction of: 1) Study Skills for 220 minutes per week in a Special Education setting and 2) Consult for social and emotional needs for 20 minutes per month in a General Education setting.

After the development of the October 2007 IEP, the student had excused absences for the next five school days. Following the fifth school day the parent withdrew the student from the zoned school and placed him in a virtual high school program and then in an independent study program.

The parent re-enrolled the student on January 16, 2008, in the zoned school for the second semester that began on January 22, 2008. Interviews and attendance records show that the student was absent on an unexcused status for the entire 87 school days of the second semester, from January 22, through June 4, 2008. The dean reported that there were repeated attempts by the instructional facilitator, school psychologist, the dean, and other administrators to encourage the parent to return the student to school during the second semester. The dean stated that she issued several warnings of truancy and loss of credit during the first few weeks of the second semester but did not take additional steps to address the student's status as a truant as required by district policy.

The parent reported that she first told district staff on January 16, 2008, that she could not get the student to attend school due to his depression and anxiety and she wanted homebound instruction for the student. The parent was given a homebound instruction application form. Sometime during the next few weeks the parent turned in the original homebound application form to the instructional facilitator. The parent was then told the form was outdated and she was provided with an updated homebound application form to complete.

The instructional facilitator reported she received the homebound instruction application from the parent the second week in February. An IEP meeting was scheduled to "review/revise the October 2007 IEP and/or educational placement" and "to change the special education placement." The meeting took place on February 27, 2008 (February IEP meeting). The parent again reported she wanted homebound instruction for the student.

The homebound coordinator informed the other members of the IEP committee that homebound instruction should not be recommended for the student until the homebound application had additional medical information from the student's psychiatrist because homebound instruction could not be instituted without all the required information submitted. The February IEP meeting was adjourned with no changes being made to any provisions of the October 2007 IEP although a transition plan was developed for implementation once the student received homebound

instruction. The parent was informed that the IEP committee would reconvene to add homebound instruction after the parent submitted the completed homebound instruction application.

The parent submitted the homebound instruction application with the additional medical information on May 2, 2008, and the application reached the homebound coordinator on May 8, 2008. The homebound coordinator reported that it was too late in the school year to begin homebound instruction and suggested that the school staff reconvene an IEP for the student at the beginning of the next semester. No IEP meeting was held once the completed homebound application was completed nor were any services provided to the student prior to the end of the school year. For the entire spring semester, the October 2007 IEP remained in effect.

Subsequent to the complaint, after school began for the 2008/2009 school year, the parent re-enrolled the student on September 9, 2008, and the student continued to have unexcused absences. An IEP meeting was conducted on September 17, 2008, and the IEP was revised to provide homebound instruction. This instruction was scheduled to begin the week of September 22, 2008.

### **CONCLUSIONS OF LAW AND REASONS**

**Issue 1:** Whether the CCSD implemented the October 2007 individualized educational program (IEP) from October 25, 2007, through November 5, 2007.

This complaint concerned an allegation that CCSD had not provided special education services to the student from October 25, 2007, through November 5, 2007.

State regulations at NAC §388.281(6)(g) require that the school district shall “provide the services and instruction deemed necessary for the pupil by the [IEP] committee.”

In this case, the student's initial IEP was developed on October 25, 2007. For the next five school days through November 5, 2007, the student was absent from school, and his parent then removed him from school enrollment. These five absences were excused. Because the student did not attend school during the five school days after the IEP was developed and before the student's parent removed him from school, the student was not available for IEP implementation.

*Therefore, the investigation team concluded that CCSD did not violate state regulations when it did not implement the student's October 2007 IEP from October 25, 2007, through November 5, 2007.*

**Issue 2:** Whether the CCSD implemented the October 2007 individualized educational program (IEP) from January 22, 2008, through June 4, 2008.

This complaint concerned an allegation that CCSD had not provided educational services to the student from January 22, 2008, through June 4, 2008.

State regulations at NAC §388.281(6)(g) require that the school district shall “provide the services and instruction deemed necessary for the pupil by the [IEP] committee.” Further, state regulations at NAC §388.281(e)(6) require that the district “implement each [individualized educational]

program as soon as possible after it is developed.”

In this case, the parent re-enrolled the student at the zoned school on January 16, 2008, so that the student could begin the second semester on January 22, 2008. The parent requested that the student be provided homebound instruction. She was given a homebound application form and when she returned it, she was informed that the form was outdated. After the parent submitted a second application, the district reconvened the student's IEP committee on February 27, 2008, to consider changing the student's placement. However, during the February meeting the district IEP members determined that additional medical information was required. The parent was instructed to obtain that information and resubmit the application, at which time the district would once again reconvene the IEP committee to consider a change in placement. No changes were made to the student's placement at the February IEP meeting, and the services and placement specified in the October 2007 IEP remained in effect for the remainder of the 2007/2008 school year.

The October 2007 IEP in effect on January 22, 2008, required that direct and consultation services be provided in special education and general education settings at school. As of January 22, 2008, the district had an obligation to implement the services and placement in the October 2007 IEP as soon as possible. Alternatively, the district could have taken prompt steps to revise the services and/or placement and then implement the revised IEP as soon as possible. However, no IEP was implemented. Instead, the student accumulated 87 days of unexcused absences from January 22, 2008, through June 4, 2008, without the provision of special education services, and without actions being taken beyond the issuance of warnings to address the student's truancy.

*Therefore, the investigation team concluded that CCSD violated state regulations when it did not implement the student's October 2007 IEP from January 22, 2008, through June 4, 2008.*

#### **ORDER FOR CORRECTIVE ACTION**

The CCSD is required to take corrective actions to address the violations found in this complaint investigation. Specifically, the district did not implement the student's October IEP for the 87 school days from January 22, 2008, through June 4, 2008.

#### **Compensatory Services**

An order for compensatory services is appropriate under these circumstances. The IEP Team determined that the student should have received 220 minutes per week of direct special education services and 20 minutes per month of consult services from January 22, 2008 through June 4, 2008.

It is therefore ordered that no later than 30 days after receipt of this investigation report, the student's IEP committee must meet to review the student's current educational needs. Then, based upon the student's identified needs, unless the parents and CCSD otherwise agree, CCSD must provide 65 hours of compensatory services, which represents the amount of time the student should have received direct and consultative special education services. The compensatory time was calculated as follows:

220 minutes per week of direct services divided by 5 (school days in a week) = 44 minutes per day of services

- 87 school days without services, multiplied by 44 minutes per day, divided by 60 minutes per hour = 63.8 hours

20 minutes per month of consult services multiplied by 4 (months without consult services) = 1.3 hours

These compensatory education hours are in addition to the homebound instruction hours included in the student's September 17, 2008, IEP.

A copy of the student's IEP reflecting decisions concerning the compensatory education services must be provided to the NDE no later than November 1, 2008. The services must be provided to the student by December 31, 2009. Verification that agreed-upon services have been provided must be provided to the NDE by January 31, 2010.

#### Professional Development/Training

In addition, CCSD must take the following corrective actions. Within 30 days of receipt of this report, the CCSD must develop and submit to the NDE a proposed Corrective Action Plan (CAP). The proposed CAP must include professional development for relevant CCSD administrators and staff regarding state regulations for implementing the services and placements in student's IEPs.

The CAP must be approved by the NDE prior to implementation. Following implementation of the approved activities, documentation of district corrective actions must be provided to the NDE within 30 days of completion.